

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
<b>Telecommunications Relay Services and</b>	)	
<b>Speech-to-Speech Services for</b>	)	<b>CC Docket No. 98-67</b>
<b>Individuals with Hearing and Speech</b>	)	
<b>Disabilities</b>	)	
<b>Second Further Notice of Proposed</b>	)	
<b>Rulemaking</b>	)	

**COMMENTS  
WORLDCOM, INC.**

**I. SUMMARY**

In this Second Further Notice of Proposed Rulemaking (FNPRM), the Commission seeks comments on whether it should attempt to devise a method for allocating IP-Relay calls among intrastate and interstate jurisdictions, and if so how to accomplish such an allocation.<sup>1</sup>

WorldCom takes this opportunity to comment on the issues raised in this FNPRM.

The Commission has authority to reimburse all IP-Relay calls from the Interstate Telecommunications Relay Service (TRS) Fund. Section 225(d)(3)(B) authorizes the

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<sup>1</sup> Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Petition for Clarification of WorldCom, Inc. Declaratory Ruling and Second Further Notice of Proposed Rulemaking ("FNPRM"), CC Docket No. 98-67, Released April 22, 2002.

Commission to reimburse carriers for relay service when states do not reimburse them. Section 225 requires states to reimburse a carrier if it establishes a state program, but does not require them to reimburse more than one carrier. Some states will undoubtedly choose to avoid the complications of reimbursing multiple providers. In these circumstances the Commission is authorized to reimburse all IP-Relay calls from the Interstate TRS Fund. The Commission should exercise this authority for all IP-Relay calls in order to guarantee providers of this service the reimbursement certainty they will need in order to expand this innovative service offering. In addition, because IP-Relay providers are only subject to the Commission's mandatory minimum standards and not to state-specific requirements, states do not have jurisdiction over IP-Relay. States should not be required to reimburse IP-Relay providers if they are not able to enforce their own requirements.

The two allocation methods mentioned in the FNPRM would impose unnecessary cost and complications on states and IP-Relay providers, and would not result in sufficiently accurate allocations. Both allocation methods would require states to hire additional staff to review the call logs of multiple providers, perform inquiries, and handle reimbursement. IP-Relay providers would have to establish reimbursement relations with every state. The added expense and complication would be inefficient and tend to discourage entry and expansion of IP-Relay service. The use of profiles to identify a caller's geographic location would result in users who face large interstate toll bills to falsely list a location outside of their state in order to avoid being charged for interstate calls. More importantly, if all users were required to list their originating location, IP-Relay will become more difficult and intrusive to use than traditional relay. This will seriously limit the appeal of this service. Finally, the existing distribution of calls shows that interstate calls account for approximately 20% of all relay calls. Because IP-Relay providers do

not currently charge users for interstate calls, the share of interstate calls will be much higher than for traditional relay. Applying the existing distribution between these two jurisdictions to IP-Relay will result in unfair allocation of reimbursement responsibility to states.

## **II. THE COMMISSION HAS AUTHORITY TO REIMBURSE ALL IP-RELAY CALLS FROM THE INTERSTATE TRS FUND**

### **A. Certified State Administrators Are Only Required To Reimburse A Single Provider Of Relay Services**

In this Further Notice of Proposed Rulemaking (FNPRM) the Commission notes that due to the fact that a relay call initiated via the Internet does not transmit automatic number identification (ANI) information, it is unable to determine the originating geographic location of the call, and is therefore unable to determine whether a call is interstate or intrastate. The Commission seeks comment on whether Section 225 of the Communications Act requires it to develop a cost allocation methodology for IP-Relay calls, or whether the statute gives it the discretion to conclude that all costs for IP-Relay shall be reimbursable from the Interstate Telecommunications Relay Service (TRS) Fund.<sup>2</sup>

Section 225(d)(3) requires the Commission to generally separate costs into intrastate and interstate jurisdictions, but this requirement only applies when states reimburse providers for intrastate relay calls. When states do not reimburse for intrastate relay calls, the Commission is authorized to reimburse providers for these calls. Section 225(d)(3)(B) contemplates this occurring when states do not have a certified relay program handling intrastate relay service and no common carrier would be able to be reimbursed from the state for providing intrastate relay service. But the advent of IP-Relay creates circumstances where multiple providers of intrastate relay service would not be reimbursed by state relay administrators.

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<sup>2</sup> Id., &43.

Section 225(d)(3)(B) requires states with certified state programs to reimburse *a* common carrier for its costs of providing intrastate relay service. However, it does not require them to reimburse *every* common carrier offering relay services that terminate within a state. Section 225(f)(2), makes this clear by allowing states to become certified by establishing a single, competitively selected vendor, who once selected, could be the only vendor authorized by the state to be reimbursed for intrastate relay services. Moreover, Section 225(f)(3) prohibits the Commission from failing to certify such a state relay program that chooses not to reimburse multiple providers of intrastate relay services. The Commission, therefore, does not have legal authority to require states to reimburse all providers of relay service within a state, and because some states will undoubtedly choose to avoid the complications of reimbursing multiple providers, some will not reimburse IP-Relay providers for intrastate relay calls. When states do not reimburse for intrastate relay calls, Section 225(d)(3)(B) authorizes the Commission to reimburse providers of intrastate relay calls.

The Commission should exercise this authority for all IP-Relay calls, and not only when states fail to reimburse IP-Relay providers. There is nothing to prevent a state that had decided to reimburse IP-Relay providers for intrastate relay calls from deciding at a later time to reimburse only a single provider selected via competitive bid. IP-Relay providers require certainty that they will be reimbursed for all calls regardless of whether the call is interstate or intrastate, especially since they may not collect any revenues associated with toll calls. Only an affirmative decision by the Commission to reimburse for all IP-Relay calls will provide this certainty.

**B. IP-Relay Calls Do Not Fall Within The Regulatory Jurisdiction Of State Relay Administrators**

The analysis above concludes that the Commission does not have the authority to require state relay administrators to reimburse more than one relay provider. However, if the Commission were to conclude otherwise, it should not exercise this authority because it would make states financially responsible for a service over which they do not have complete oversight authority. IP-Relay calls are required to meet the Commission's mandatory minimum requirements. State administrators retain the prerogative to go beyond the Commission's mandatory minimum standards, and they also retain the prerogative to require the specific technical configurations they believe will best meet the Commission's mandatory minimum requirements. State administrators may also specify contract terms that may not directly pertain to meeting the Commission's mandatory minimum standards, so long as they do not conflict with the Commission's mandatory minimum standards.

IP-Relay providers are required to meet the Commission's mandatory minimum standards, but are not subject state requirements that go beyond these requirements. Consequently, State administrators would not be the appropriate regulatory entity to consider informal or formal complaints for the provision of IP-Relay service. Section 225(f)(3) authorizes states to enforce the requirements of their relay programs, yet because IP-Relay providers are subject solely to the Commission's mandatory minimum standards, states do not have the authority to enforce the requirements of their relay programs for intrastate IP-Relay services. Thus, even if the Commission were to identify some IP-Relay calls as originating and terminating within a single state, they would still be under the jurisdiction of the Commission and, therefore, should be considered intrastate calls.

### **III. REIMBURSING IP-RELAY CALLS SOLELY FROM THE INTERSTATE TRS FUND IS THE MOST EFFICIENT AND EQUITABLE METHOD OF REIMBURSEMENT**

The Commission also asks about the desirability of two methods of estimating the geographic location of an IP-Relay call in order to apportion responsibility for IP-Relay among individual states, and between the state and federal jurisdictions: 1) having users register their location in their customer profile, and 2) using the existing distribution of traditional relay calls between the various state and federal jurisdictions to allocate IP-Relay calls among these jurisdictions.<sup>3</sup>

Both options would increase administrative costs for relay providers and states, and both options are inaccurate. States would need to hire additional staff to review the call logs of multiple providers, perform inquiries, and handle reimbursement. IP-Relay providers would have to establish reimbursement relations with every state. The added expense and complication would be inefficient and tend to discourage entry and expansion of IP-Relay providers.

In addition, neither profiles, nor using the existing distribution of interstate and intrastate calling, would be accurate. Because IP-Relay users are not currently charged for toll calls, the greatest avenue for growth in demand will be for this type of call. If consumers are required to identify their calling location, they will fear they will eventually be billed for non-local calls. This could cause them to choose a calling location that would minimize these charges. Users facing high interstate toll bills would have an incentive to list a location outside of their state. Having to identify ones' location, something not customarily provided by Internet users, would also be perceived as a privacy intrusion. Users would perceive they would be required to provide more personal information to use IP-Relay than traditional relay. IP-Relay would be

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<sup>3</sup> Id., &43.

disadvantaged by this requirement, which in turn would tend to discourage entry and expansion of this innovative service.

Using the existing distribution of traditional relay calls between interstate and intrastate, and then among each state, to allocate IP-Relay calls would also be inaccurate. The absence of toll charges for IP-Relay will result in a substantially higher proportion of calls being interstate than traditional relay, for which interstate calls account for approximately 20 percent of all calls. Using the existing distribution would unfairly allocate financial responsibility to the states.

#### **IV. CONCLUSION**

For the reasons discussed above, WorldCom urges the Commission to adopt its recommendations.

Respectfully Submitted

**Larry Fenster**

**Larry Fenster**  
1133 19<sup>th</sup> St., NW  
Washington, DC 20036  
202-736-6513

## Statement of Verification

I have read the foregoing, and to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct.

Executed on July 11, 2002

**Larry Fenster**

**Larry Fenster**  
1133 19<sup>th</sup> St., NW  
Washington, DC 20036  
202-736-6513